

## **EXHIBIT 10**

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**From:** Heather Kliebenstein  
**Sent:** Wednesday, April 3, 2019 10:17 AM  
**To:** Fleming, Terrence  
**Cc:** Pham, Christopher; Janus, Leah; Michael Erbele; Allen Hinderaker; '15081.0008USZA.active@ef.merchantgould.com'  
**Subject:** FW: FICO v. Federal, et al.  
**Attachments:** FICO v. Federal - Discovery Deficiency Letter to FICO 03.29.19-c.pdf; FED017912\_0001\_image.pdf

Terry, let's schedule a time to talk about these issues in view of the testimony yesterday. Here are my general thoughts.

1. On the M&A issue, our offer is to review the files relating to the M&A events identified in our supplemental response to Interrogatory No. 20. You received some testimony on how that process would work yesterday. This search would be in response to Doc. Req. Nos. 20, 21, 25 and 46. Let me know if you would like to discuss that process today or Friday. I am speaking at a conference tomorrow but could fit in a short call. Friday is open.
2. On the discount issue, you received testimony from Mr. Waid yesterday on discounts. Mr. Waid's testimony provides you with the information requested in RFP 48-49 (the manner in which FICO determines discounts; factors considered in determining discounts). FICO does not maintain a list of discounts that would be responsive to RFP 50, and we do not believe it is reasonable to search all FICO records (emails, documents, etc) for all Blaze Advisor negotiations in the hopes of finding random documentation of specific discount rates. As Mr. Waid testified, many discussions around discounts were verbal. In many instances, the final agreements reflect the discounts provided. Our position is that you have complete testimony to explain the discounting process at FICO and you also have all relevant, responsive documents that exist pursuant to a reasonable search on this topic.
3. On the audit issue, are you asking me to amend our response to RFP 47 to expressly state "no documents exist"? RFP 47 asks for "all documents" about any audit at any time of any licensee for any FICO product. I can't confirm no documents exist because the search request is unreasonable and not relevant. Are you amending RFP 47 so that it only refers to Federal? You have several deposition transcripts that confirm FICO did not audit Federal prior to the 2016 negotiations. Carretta's 30(b)(6) on the topic should be comprehensive. Let me know if there is really a live issue here after you review the Carretta transcript.

On Friday, you asked me what was the pricing document referenced in Mr. Waid's first deposition at p. 12. That document is Dep. Ex. No. 421—the 2003 Global Price List.

**Finally, I raise my request to de-designate FED017912 again.** I have asked 4-5 times over 2 weeks. I provided Leah similar permission as a professional courtesy the same day she requested it several weeks back. I did not even ask her why she needed the document de-designated, again as a professional courtesy to not try to invade her work product. This document is nearly identical to the documentation provided to Mr. Waid in connection with the December settlement conference. I don't want to move the court about this issue, but Friday is our deadline to do so. **Please notify me by end of day of your decision.**

Heather

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**From:** Pham, Christopher <CPham@fredlaw.com>  
**Sent:** Friday, March 29, 2019 4:44 PM  
**To:** Allen Hinderaker <AHinderaker@merchantgould.com>; Heather Kliebenstein <HKliebenstein@merchantgould.com>; Michael Erbele <MErbele@MerchantGould.com>

**Cc:** Fleming, Terrence <TFleming@fredlaw.com>; Janus, Leah <LJanus@fredlaw.com>

**Subject:** FICO v. Federal, et al.

**CAUTION - External.**

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Counsel,

Please find attached correspondence regarding the above-referenced matter.

Thanks,



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